



SO ORDERED.

SIGNED this 09 day of January, 2008.

A handwritten signature in black ink, reading "A. Thomas Small", is written over a horizontal line.

**A. Thomas Small
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CASE NO.

ARCADIUS DEVELOPMENT, LLC

07-01462-5-ATS

DEBTOR

**ORDER REGARDING MOTIONS TO EXTEND OR REDUCE
EXCLUSIVITY PERIOD**

The matters before the court are the motion of Arcadia Group North Carolina, LLC ("Arcadia NC"), a member and unsecured creditor of the chapter 11 debtor, Arcadius Development, LLC, to terminate exclusivity to allow it to file a competing chapter 11 plan, and the motion of the debtor to extend the exclusivity period for filing a chapter 11 plan. A hearing and status conference was held on January 8, 2008.

The debtor filed a petition under chapter 11 of the Bankruptcy Code on July 5, 2007. Accordingly, the exclusivity period provided by 11 U.S.C. § 1121(b), in which only the debtor may file a plan until 120 days after the date of the order for relief, extended from July 6, 2007 through November 2, 2007. The motion to terminate exclusivity was filed by Arcadia NC on November 20, 2007, and the motion to extend it was filed by the debtor on December 5, 2007, both well after expiration of the 120-day exclusivity period.

The debtor did file a plan on October 3, 2007, which it asserts continued its exclusivity period through January 2, 2008, which (discounting the January 1st holiday) is 180 days after the entry of the order for relief. 11 U.S.C. § 1121(c)(3). The debtor indicated its intent to file an amended plan in its motion, and at the hearing stated that it had filed an amended plan and disclosure statement on January 4, 2008. Counsel for both the debtor and Arcadia NC also agreed that the competing exclusivity motions are moot, and the debtor has no objection to the filing of other plans.

Accordingly, Arcadia NC's motion to terminate the exclusivity period is **DENIED** as moot. The debtor's motion to extend the exclusivity period likewise is **DENIED**.

SO ORDERED.

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